

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PASHA S. ANWAR, et al., :
 : 09 Civ. 0118 (VM)
 :
 : Plaintiffs, :
 :
 : 10 Civ. 8272
 : (Lou-Martinez)
 :
 : -against- :
 :
 : FAIRFIELD GREENWICH LIMITED, :
 :
 : et al., :
 :
 :
 : DECISION AND ORDER
 :
 : Defendants. :
 :
 :-----X
VICTOR MARRERO, United States District Judge.

In a Decision and Order dated November 2, 2011 (the "November 2011 Order"), see Anwar v. Fairfield Greenwich Ltd., 826 F. Supp. 2d 578 (S.D.N.Y. 2011), the Court dismissed the claims of plaintiffs Moises Lou-Martinez and Wong Yuk Hing De Lou (together, the "Lous") for breach of fiduciary duty and gross negligence because those claims were "not supported by any factual allegations in the complaint." Id. at 592. The Court granted "leave to replead upon a request by Plaintiffs with sufficient new factual allegations and particulars plausibly showing how such repleading would correct the deficiencies identified in the Court's findings, and thus would not be futile." Id. at 594.

In a letter-brief dated November 22, 2011 (Docket No. 758), the Lous sought leave to replead a breach of

fiduciary duty claim predicated on allegations that defendant Standard Chartered Bank International (Americas) Limited ("SCBI") (1) made an unauthorized trading investment in the Fairfield Sentry Fund ("Sentry"), and (2) failed to conduct adequate due diligence into and post-investment monitoring of Sentry. SCBI responded in a letter-brief dated December 2, 2011 (Docket No. 898).

Upon consideration of the November 2011 Order and the parties' letter-briefs, the Court finds no grounds to grant the Lous' request to replead. In their letter, the Lous have failed to highlight any new factual allegations that would cure the deficiencies the Court recognized in the November 2011 Order. The Lous continue to allege that SCBI made an unauthorized investment on their behalf in Sentry, which, as the Court held in the November 2011 Order, does not support an allegation for breach of fiduciary duty. Moreover, before the Court issued the November 2011 Order, the Lous voluntarily dismissed their claim based on the alleged unauthorized investment in Sentry, and the November 2011 Order did not grant the Lous permission to seek to replead that claim.

Accordingly, for the reasons stated above, the Lous' request for leave to replead is hereby DENIED.

SO ORDERED.

Dated: New York, New York
27 June 2012



VICTOR MARRERO
U.S.D.J.